

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7074**

**BILL NUMBER: SB 573**

**NOTE PREPARED:** Jan 17, 2009

**BILL AMENDED:**

**SUBJECT:** Binding Arbitration of Judicial Mandates.

**FIRST AUTHOR:** Sen. Boots

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☐ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It provides that a judicial mandate must be submitted to binding arbitration upon the request of the court or the mandated party. It specifies that a judicial mandate submitted to binding arbitration must be heard by a panel of three arbitrators: one selected by the court, one selected by the mandated party, and the third selected by the first two arbitrators.
- B. It provides that the special judge shall set the compensation of the arbitrators and that the costs of arbitration are to be equally divided between the judge and the mandated party.
- C. It specifies that the arbitration hearing is open to the public and that documents provided in the scope of the arbitration are public documents unless privileged or declared confidential by another law. It provides that the arbitration panel shall reach a determination not later than 20 days after the date of the hearing, specifies that the determination of the arbitration panel is dispositive as to all issues, and requires the special judge to enter a judgment on the determination.
- D. It provides that the judgment of the special judge is effective without review by the Supreme Court.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** See *Explanation of Local Expenditures*.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** The added costs for hiring arbitrators would depend on compensation set by special judge and whether arbitration is used. Indiana courts follow Trial Rule 60.5 when they disagree with the county council on court expenditures. As proposed, the procedure provided in the bill could be used

if the court and the mandated party (usually a county council) agree to binding arbitration.

Trial Rule 60.5 requires the following steps:

- (1) When a court wishes the local unit of government to either appropriate or pay for unappropriated funds, the court issues an order to show cause why an appropriation should not be made.
- (2) If the county council or county executive does not pay the mandated amount, the trial court notifies the Supreme Court about the mandate, and the Supreme Court appoints a special judge to hear the case.
- (3) The special judge hears the case and makes a ruling. The Supreme Court reviews the decision.

As proposed, if a dispute exists between the trial court and the county council, a panel of three arbitrators would decide the case based on the procedure provided in the bill and file a written determination with the special judge. The judgment of the special judge would be effective without review by the Supreme Court. This bill does not require courts and mandated parties to engage in binding arbitration unless one of the parties requests it.

Background– The Division of State Court Administration reports the number of mandated issues between 2004 and 2007.

Amount of Court Ordered Mandates by County					
County	2004	2005	2006	2007	Grand Total
Benton			\$37,180	\$43,425	\$80,605
Clark	\$1,971	\$49,547			\$51,518
Decatur		\$2,865			\$2,865
Henry	\$905		\$432	\$5,588	\$6,925
Jasper			\$12,204	\$19,408	\$31,612
Jennings	\$1,500				\$1,500
La Porte	\$28,124	\$5,214			\$33,338
Lawrence	\$79,997	\$113,302	\$28,861	\$19,642	\$241,802
Lawrence		\$314			\$314
Miami	\$53,663	\$19,974	\$1,358	\$5,388	\$80,383
Montgomery				\$110,973	\$110,973
Noble				\$28,283	\$28,283
Ohio	\$20,636				\$20,636
Putnam		\$30,000			\$30,000
Shelby			\$4,092	\$7,091	\$11,183
Switzerland	\$2,053	\$52,473	\$29,034		\$83,560
Warrick	—	—	\$17,749	—	\$17,749
Grand Total	\$188,849	\$273,689	\$130,910	\$239,797	\$833,245

The following table shows the types of expenditures that counties have been mandated to pay by the

courts for the period between 2004 and 2007.

<b>Types of Mandated Expenditures</b>					
<b>Type</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>Grand Total</b>
Court Interpreter		\$355	\$534	\$50	\$939
Court Personnel		\$22,500		\$117,232	\$139,732
Court Transcripts	\$12,656	\$22,996		\$24,439	\$60,091
Evidence Materials			\$4,092		\$4,092
Facility Improvements			\$11,461		\$11,461
Guardian Ad Litem	\$1,403	\$3,356	\$5,265	\$131	\$10,155
Indigent Defense	\$117,670	\$156,310	\$86,093	\$77,633	\$437,706
Interpreter Service				\$50	\$50
Investigation Fees	\$10,885	\$3,942			\$14,827
Legal Libraries			\$415	\$9,000	\$9,415
Legal Services	\$14,832				\$14,832
Maintenance	\$210				\$210
Medical and Psychiatric Services	\$6,115	\$14,316	\$612	\$5,250	\$26,293
Office Supplies		\$207			\$207
Other Services	\$1,331	\$314		\$1,500	\$3,145
Overtime Compensation			\$2,204		\$2,204
Petit Jurors	\$1,617	\$4,084	\$1,878	\$4,562	\$12,141
Prisoner Related Issues	\$1,971	\$13,615			\$15,586
Special Prosecutor	\$8,199	\$4,646	\$608		\$13,453
Staff Salaries	<u>\$11,962</u>	<u>\$27,047</u>	<u>\$17,749</u>		<u>\$56,758</u>
Grand Total	<u>\$188,849</u>	<u>\$273,689</u>	<u>\$130,910</u>	<u>\$239,797</u>	<u>\$833,246</u>

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Supreme Court.

**Local Agencies Affected:** Trial courts; County councils.

**Information Sources:** Indiana Supreme Court; Division of State Court Administration.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.